

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| <p>Applicant(s): Lester F. LUDWIG</p> <p>Serial No.: 09/812,400</p> <p>Filed: March 19, 2001</p> <p>Title: PROCESSING AND GENERATION OF CONTROL SIGNALS FOR REAL-TIME CONTROL OF MUSIC SIGNAL PROCESSING, MIXING, VIDEO, AND LIGHTING</p> <p>Group Art Unit: 2837</p> <p>Examiner: Marlon T. Fletcher</p> <p>Confirmation No. 7356</p> <p>Attorney Docket No.: 92022-8727 [2152-3005]</p> | <p>Certificate of Transmission/Mailing</p> <p>I hereby certify that this correspondence is being facsimile transmitted to the USPTO, transmitted via the Office electronic filing system, or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:</p> <p><u>September 8, 2008</u> <u>/Jeffrey J. Lotspeich/</u> Date Jeffrey J. Lotspeich Registration No. 45,737 Attorney for Applicant(s)</p> |
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SUPPLEMENT TO APPEAL BRIEF

Mail Stop Appeal Brief -- Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant submits this Supplement to the previously filed Appeal Brief. This Supplement reflects recent changes to the Related Appeals and Interferences portion of the Appeal Brief. All other portions of the Appeal Brief remain as previously submitted. Accordingly, Appellant submits the following:

II. RELATED APPEALS AND INTERFERENCES

Currently, there are six other related appeals which have been filed. These appeals have been filed in the following applications:

| Docket No. | App. Ser. No.: | App. filing date: | Appeal filed: |
|-------------------|-----------------------|--------------------------|--|
| 2152-3014 | 10/676,926 | September 30, 2003 | January 31, 2008 |
| 2152-3023 | 10/680,591 | October 6, 2003 | January 31, 2008 |
| 2152-3027 | 10/702,262 | November 5, 2003 | January 29, 2007* & March 12, 2008 |
| 2152-3026 | 10/703,023 | November 5, 2003 | July 25, 2006 |
| 2152-3030 | 10/702,415 | November 6, 2003 | August 8, 2008 |
| 2152-3044 | 11/040,163 | January 21, 2005 | January 31, 2008 |

With regard to Ser. No. 10/702,262 (Atty. Doc. No. 2152-3027), the Examiner has recently reopened prosecution by issuing an Office Action on December 10, 2007. On review of this Office Action, it is believed that the Examiner has improperly reopened prosecution as being in violation of the requirements of MPEP § 1207.04 since, *inter alia*, the Examiner failed to obtain the necessary approval from his supervisory patent examiner.¹ Notwithstanding the improper reopening of prosecution in that case, since the Examiner has, in all relevant parts, simply reformulated the same rejections, Appellant has filed a second Notice of Appeal in the '262 application on March 12, 2008.

Appellant notes further that there are approximately five additional pending applications containing substantially the same disclosure as the above-identified applications, and which are assigned to the same Examiner as the present application and the above-mentioned applications. Based upon conversations with the Examiner and his SPE Lincoln Donovan, Appellant anticipates that each of the five pending applications, which if rejected, will also require an appeal to the Board of Appeals and Interferences. Appellant will endeavor to update this section of the present Appeal Brief when necessary to reflect the current status of such related appeals.

¹ The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. MPEP 1207.04

CONCLUSION

Appellant respectfully requests that the forgoing Section II be used to replace the Section II of the previously submitted Appeal Brief.

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Respectfully submitted,

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Date: September 8, 2008